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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/615,638 | 07/13/2000 | Jason W. May | 003801.P034 | 4663 |
| 21186 | 7590 | 09/27/2006 | EXAMINER | |
| SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402 | | | CUFF, MICHAEL A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3627 | |

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/615,638

Applicant(s)

MAY ET AL.

Examiner

Michael Cuff

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. in view of Cook and Findley.

Lee et al. teach a method for detecting fraud when facilitating a payment transaction over the Internet, the method comprises receiving sales information pertaining to the purchase of a product (121), receiving payment information from a buyer (304), performing an automated analysis (112) to determine if fraud exists, (processing at least some information associated with historical information in order to determine whether fraud is present) notifying the seller to send the product to the buyer (the fulfillment of the order) when no fraud exists and communicate to a human for fraud investigation when the analysis indicates potential fraud (104 and claim 7). It should also be noted that Lee et al. teach numerous fields including IP address, shipping address, billing address (Table 2) that are used in the automated analysis to determine fraud. Step 304, receive transactions, receives historical transaction data from merchants' e-commerce sites (sales facilitators). This information is used in the above

analysis to determine fraud. Although Lee et al. teaches the fraud processing of the instant application, Lee et al. are silent as to the detection operation be conducted by the payment facilitator system.

However, it is a well-known business practice that fraud detection and credit verification is performed by the payment facilitator system at a point of sale device, such as disclosed by Cook. Specifically, Cook teaches a centralized authorization a fraud prevention system having a payment facilitator or payment intermediary. Accordingly, to provide the fraud detection at a payment facilitator system, as disclosed by Cook, in the system of Lee et al. would have been obvious for one having ordinary skill in the art at the time of the invention. The motivation for this change would have provided a consistent set of rules for fraud detection for multiple merchants.

Lee is silent to the interaction between the payment facilitator and the buyer's financial institution. Findley teaches a device for selectively blocking remote purchase request. Column 1 discusses several techniques of monitoring remote purchases. After getting through the device the buyer's financial institution is directly contacted in order to authorize and settle up the account. It would have been obvious to incorporate the final settling up steps of Findley in the system of Lee in order to authorize and settle up the account.

Regarding claims 18 and 39, As noted above, Lee et al. teach all of the features of the claimed invention including sending communication to the seller; however, Lee et al. appears to be silent regarding sending communication to the purchaser. On the other hand, it is common for businesses to notify the purchasers that a transaction can not be

completed due to processing flags which include overdrawn of an account, invalid or expired credit card number etc. Accordingly, it is believed that Lee et al teach sending a communication to the buyer. In order to specifically define such a teaching, Anderson et al. is submitted to show contacting a customer in the event of a problem (Fig. 3). Accordingly, to include a communication to the buyer in the event of a problem with the transaction in the Lee et al. system, as suggested by Anderson et al. would have been obvious for one having ordinary skill in the art at the time of the invention. The motivation for such a modification is seen in col. 5, lines 40-50, which details how customer relations are improved.

Response to Arguments

Applicant's arguments filed 9/18/06 have been fully considered but they are not persuasive.

Applicant asserts that the combination of prior art does not include a "payment facilitator" as defined by the positive limitations recited in the independent claims. The examiner does not concur and points out that applicant's specific details do not correspond to the claim language. Phrases such as "at the same time" and "interact seamlessly" are argued, but do not exist in the claim language.

Applicant's example of the small seller does not address claim limitations such that the example shows that the prior art cannot meet a recited claim limitation.


Applicant's assertion that "applicants' arrangement removes previous hurdles of transacting for small or individual buyers and sellers" is also not relevant because it does not disclose a claim limitation, which is not met by the prior art.

Drawing objections and the 112 rejections have been withdrawn due to applicant's amendment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Cuff
September 22, 2006